APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,820	10/31/2003	Matthew Englehart	MWS-062RCE	1288

74321   7590   09/03/2008
LAHIVE & COCKFIELD, LLP/THE MATHWORKS
FLOOR 30, SUITE 3000
One Post Office Square
Boston, MA 02109-2127

EXAMINER
CHEN, QING

ART UNIT	PAPER NUMBER
2191	

MAIL DATE	DELIVERY MODE
09/03/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/698,820	ENGLEHART ET AL.
	Examiner	Art Unit
	Qing Chen	2191

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>11 August 2008</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: <u>*1-26*</u>.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/Wei Y Zhen/
Supervisory Patent Examiner, Art Unit 2191

Continuation of 11. does NOT place the application in condition for allowance because:

Regarding the Applicant's arguments on page 10 to page 11 of the "Remarks" pertaining to the rejections of the claims made under 35 U.S.C. § 103(a), the Applicant contends that Hunt does not disclose the particular claim limitation of "providing a user interface with a plurality of selectable parameters for a custom storage class, said custom storage class specifying a second manner in which said automatic code generator creates source code corresponding to said data referenced by said at least one graphical model in said graphical modeling and execution environment, said second manner differing from said first manner." More specifically, the Applicant asserts that Hunt does not disclose or suggest creating source code corresponding to data referenced by a graphical model, as required by Claim 1. Applicant also asserts that the object-oriented components in Hunt are in an object-oriented programming environment, not in a graphical modeling and execution environment, as required by Claim 1. Applicant's arguments are fully considered, but found to be not persuasive for at least the following reasons:

First, in response to the Applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See In re Keller, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); In re Merck & Co., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Second, with respect to the Applicant's assertion that Hunt fails to disclose or suggest creating source code corresponding to data referenced by a graphical model, as previously pointed out in the Final Rejection (mailed on 06/09/2008) and further clarified herein, the Examiner respectfully submits that Hunt clearly discloses creating source code corresponding to data referenced by a graphical model (see Figure 2; Paragraph [0050], "Turning now to FIG. 1, by way of an overview, the user of the code generator 100 ... of the present invention enters meta-data 102 into the code generator 100's GUI."; Paragraph [0081], "In this embodiment of the code generation method and apparatus of the present invention, information is input via the GUI (Graphical User Interface) to the code builder application 100 to provide the essential information from an object model. This information includes class inheritance, members, methods, interface description, whether this is a component or an interface and explanatory comments."). Note the input meta-data information (e.g., class inheritance, members, methods, interface description, etc.) describes the object referenced by the object model (graphical model) and provides information about the object to the code generator. In addition, the Examiner further submits that one of ordinary skill in the art would readily recognize that the object model as disclosed in Hunt is akin to a graphical model since an object model of the object-oriented programming paradigm is normally represented as a class/object diagram using the Unified Modeling Language (UML).

Third, with respect to the Applicant's assertion that the object-oriented components in Hunt are in an object-oriented programming environment, not in a graphical modeling and execution environment, the Examiner would like to point out that Claim 1 is rejected under 35 U.S.C. § 103(a) as being unpatentable over RTW_UG in view of Hunt. As acknowledged by the Applicant on page 8 of the "Remarks," RTW_UG is a user guide for Real-Time Workshop® which produces code from Simulink® models and automatically builds programs that can be run in a variety of real-time and stand-alone environments. Thus, RTW_UG clearly discloses a graphical modeling and execution environment. RTW_UG also discloses utilizing storage classes (see, for example, Page 3.19). Hunt relates to a method and apparatus of automating generation of object-oriented code for an object and is relied upon by the Examiner for its specific teaching of "providing a user interface with a plurality of selectable parameters for a custom storage class, said custom storage class specifying a second manner in which said automatic code generator creates source code corresponding to said data referenced by said at least one graphical model." Examiner would also like to point out that, as admitted by the Applicant in the "Background" section of the specification, allowing a user to define new, custom storage classes for use in a code generator is well-known to one of ordinary skill in the art and also conventional in the area of software development. Thus, in view of RTW_UG, Hunt, and the state of the art, one of ordinary skill in the art would be motivated to modify Real-Time Workshop® to allow a user to select parameters for a custom storage class that specify how the code generator produces code from Simulink® models. Such modification would allow Real-Time Workshop® to produce code from Simulink® models without introducing errors by applying the same user edits to the model data (see Hunt - Paragraph [0004]).

Fourth, the Examiner would like to further point out that RTW_UG is within the field of the Applicant's endeavor and hence is analogous prior art because RTW_UG is directed to a set of tools for generating code from Simulink® models for targeted systems. Hunt is concerned with the same problem which the Applicant sought to be solved and hence is analogous prior art because Hunt relates to a method and apparatus of automating generation of object-oriented code by allowing a user to enter meta-data defining an object in an object model. Therefore, it is permissible to combine the teaching of Hunt into the teaching of RTW_UG to include the limitations disclosed by Hunt since Hunt provides a reason for combining the elements in the manner claimed. See MPEP § 2141.01(a).

Therefore, for at least the reasons set forth above, the rejections made under 35 U.S.C. § 103(a) with respect to Claims 1, 12, and 16 are proper and therefore, maintained.